

**REMARKS**

Applicants respectfully request reconsideration of the instant application in the view of the following remarks. Claims 1-66 were previously pending in the instant application. Claims 1, 25, 29, 33, 35, 39-51 and 60-63 have been amended herein. Applicants submit that no new matter has been added by way of this amendment. Applicants explicitly reserve the right to add/pursue the claims as originally filed at a later date and/or in a continuation application. Applicants have amended the independent claims to expedite prosecution and to better capture disclosed embodiments of interest. Furthermore, Applicants submit that the claims as originally filed are patentably distinct from the cited references.

**Claim Objections**

The Examiner has objected to claims 25 and 60 based on claim language informalities related to antecedent basis (See, Office Action, page 2, ¶ 2). Claim 26 has been objected to as being dependent on claim 25 and has been treated for examination as depending on claim 24. (See, Office Action, page 2, ¶ 2). Applicants have herein amended claims 25 and 60 to remedy the antecedent informalities basis of these claims. Accordingly, Applicants also request that claim 26 is examined as being dependent from claim 25 in accordance with the language recited in claim 26. Also, Applicants request withdrawal of the objections to claims 25, 26 and 60.

The Examiner suggests amending claim 15. However, Applicants submit that claim 15 recites various parameters that may be associated with an embodiment of a travel product. The claim also describes one possible implementation of determining the load factor

discrepancy. Accordingly, Applicants submit that the claim language is clear and definite and does necessitate an amendment.

### **Rejections under 35 U.S.C. § 103**

Claims 1-66 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over various combinations of Katz, et al. (US Patent No. 6,055,513) ("Katz"); Dinell ("Businesses Taking a Hard Look at Air Travel as Fares Increase" ("Dinell")); and O'Brien, et al. (US Patent No. 5,832,457) ("O'Brien"), and several instances of Official Notice. More specifically, independent claim 1 has been rejected under 35 U.S.C. § 103(a) over Katz, in view of Dinell. Applicants respectfully submit that a *prima facie* case of obviousness has not been established and that the cited references taken alone or in combination do not teach, disclose or suggest the claimed invention.

Amended independent claim 1 recites, *inter alia*:

1. A computer-implemented method for offering a travel product for sale, comprising:  
     receiving a preferred travel product record and  
     at least one alternate travel product record...  
     selecting at least one alternate travel product  
     based on the at least one received alternate travel product  
     record, wherein the at least one alternate travel product  
     provides a greater value to a seller if sold than the preferred  
     travel product and is related to the preferred travel product by  
     at least one travel product relation parameter....

Applicants submit that the cited references taken alone or in combination do not teach, disclose or suggest at least a preferred travel product and an alternate travel product wherein the alternate travel product provides a greater value to a seller and is related by at least one travel product relation parameter.

Applicants submit that Katz discusses a qualified method of upselling a second product when a request for a first product is received. More specifically, Katz discusses, "Most particularly, they [Katz' system implementations] relate to the selection and offering of an upsell transaction, namely, where the product or service offered differs materially from the product or service for which the contact was made." (See, Katz, "Field of the Invention" Col. 1, lines 13-17). Katz discusses examples of this including offering a product in response to a request for services. For example, Katz discusses responding to a request for repair services by offering a sales transaction for a brand new product for that would provide that requested services. (See, Col. 9, lines 5-20). Alternately, Katz' discusses utilizing customer identification data such as an email address, customer numbers, billing data, social security data, demographic and/or credit card data to select a secondary product for upselling (See, Col. 9, line 21-Col., line 24). Applicants submit Katz' substitution of goods instead of services or customer-identifier basis of secondary product selection does not render the claims obvious.

Accordingly, Applicants submit Katz does not teach disclose or suggest at least selecting at least one alternate travel product based on the at least one received alternate travel product record, wherein the at least one alternate travel product provides a greater value to a seller if sold than the preferred travel product and is related to the preferred travel product by at least one travel product relation parameter. Furthermore, the Examiner acknowledges that Katz "does not expressly disclose that the at least one alternate product provides...but this motivation is considered obvious and implicit in the use of the term 'upsell'." (See, Office Action Page 3, ¶ 2). Applicants disagree and submit that for the reasons identified above Katz' "materially different" first and second products instead teach

away from providing a relationship between the primary and alternate product in terms of value and at least one travel product relation parameter as recited in independent claim 1.

Furthermore, Applicants submit that Dinell fails to remedy at least the deficiencies discussed above in Katz. Dinell is an article that discusses how business class travelers have been scaling back on business travel and what "businesses [can] do to combat escalating air fares" (See, Dinell, Page 3, ¶ 9). The article advises business travelers to search for promotional air fares as air carriers are faced with trying to balance fare prices with maintaining a viable number of passengers (See, Dinell, Page 1, ¶ 9-10). However, Applicants submit that Dinell's discussion of the airline fare market also does not render at least the relationship of the preferred and alternate travel product as recited in independent claim 1 obvious, taken alone or in combination with Katz.

Accordingly, Applicants submit that amended independent claim 1 is patentably distinct from the cited references. Furthermore, Applicants submit that neither O'Brien or the Examiner's various instances of official notice remedy these deficiencies. Although Applicants have not explicitly addressed these references and their relation to the dependent claims, Applicants explicitly reserve the right to do so in a future response.

Applicants also traverse the various instances where the Examiner has taken Official Notice. Applicants request the Examiner provide documentary evidence establishing that the elements as recited in the context of the claimed invention are "notoriously old and well known." (See, MPEP § 2144.04) This section of the MPEP requires that the Examiner "must provide documentary evidence in the next Office Action if the rejection is to be maintained." (See MPEP § 2144.04 citing 37 CFR 1.104(c)(2)).

### **Conclusion**

Therefore, Applicants submit that independent claim 1 is patentably distinct from the cited art of record for at least these reasons. Furthermore, Applicants submit that independent claims 29, 33, 35, 39-51, 61-63 and new independent claim 67 are also patentably distinct from the cited art of record for at least similar reasons. Applicants submit that claims 2-28, 30-32, 34, 36-38, 52-60 and 64-66, which are directly or indirectly dependent on independent claims independent claims 29, 33, 39-51, 61-63 respectively, are also patentably distinct from the cited are of record for at least similar reasons. Therefore, Applicants respectfully request the rejection of claims 1-66 be withdrawn and submit that each of the pending claims, as well as new independent claim 67, are in condition for allowance.

**AUTHORIZATION**

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 03-1240, Order No. 17200-079US1.

In the event that an additional extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 03-1240, Order No. 17200-079US1

Respectfully submitted,  
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